

EXHIBIT B

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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
CIVIL ACTION NO. 07-11983

CAPE ANN MARINA, CORP.,)
Plaintiff;)
)
vs.)
)
WATSON INSURANCE AGENCY,)
Defendant.)

DEPOSITION OF ANDREW DOMINICK, JR., a
witness called on behalf of the Defendant,
pursuant to the provisions of Rule 30 of the
Massachusetts Rules of Civil Procedure,
before Lisa Gallo, a Shorthand Reporter and
Notary Public in and for the Commonwealth of
Massachusetts, at the offices of
Orlando & Associates, One Western Avenue,
Gloucester, Massachusetts 02740, on Friday,
May 22, 2009, commencing at 10:05 a.m.

ORIGINAL

APPEARANCES:

BY ATTORNEY BRIAN S. MCCORMICK

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for the Plaintiff.

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for the Defendant.

I N D E X

Deposition of: Direct

ANDREW DOMINICK, JR.

By Mr. Rose 4

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S T I P U L A T I O N S

It is stipulated by and between counsel for the respective parties that the deposition transcript is to be read and signed by the deponent under the pains and penalties of perjury; and that the reading and signing is deemed waived if not accomplished within 30 days of transcript delivery; and that all objections, except as to form, and motions to strike are reserved to the time of trial.

* * *

ANDREW DOMINICK, JR., a witness called for examination by counsel for the Defendant, having been satisfactorily identified by the production of his Florida driver's license, being first sworn by the Notary Public, was examined and testified as follows:

* * *

D I R E C T E X A M I N A T I O N

BY MR. ROSE:

Q. Mr. Dominick, as you know my name is Bill Rose. I represent the Watson Insurance

1 Agency in this case. I'm going to be asking
2 you many questions. If at any time you don't
3 understand my question or if it's confusing,
4 let me know and I'll rephrase it. Okay?

5 A. Okay. I'm a little hard of hearing so if you
6 don't mind....

7 Q. And I tend to talk sometimes quickly, so slow
8 me down if --

9 A. That's okay. I just want you to know I'm
10 not --

11 Q. Okay. If you need to take a break for any
12 reason or you want to consult with counsel,
13 feel free to let me know. The only thing I
14 request is if there's a question pending,
15 just answer the question and then we'll take
16 the break. Okay?

17 A. Fine.

18 Q. Lastly, if you can recall that the court
19 reporter is taking down everything that's
20 said, and you may make a gesture or look at a
21 document and say this says X, Y and Z. And I
22 can see what you're referring to, but the
23 record's not clear. So try to make sure you
24 say yes or no; that when we're looking at a

1 document, we'll say this is Exhibit 3 or
2 whatever, just so it's clear what we're
3 talking about. Okay?

4 A. Yes.

5 Q. Could you please state your full name for the
6 record?

7 A. Andrew Anthony Dominick.

8 Q. And where do you live?

9 A. Fort Lauderdale, Florida.

10 Q. What's the street address?

11 A. 3013 Harbor Drive.

12 Q. How long have you lived there?

13 A. 13 years.

14 Q. Are you currently working?

15 A. No.

16 Q. When did you last work?

17 A. 1995.

18 Q. Where were you working then?

19 A. Cape Ann Marina, Corporation.

20 Q. What was your position there?

21 A. I was the president.

22 Q. How long had you been president then?

23 A. From 1972 to 1995.

24 Q. Where is Cape Ann Marina located?

1 A. 75 Essex Avenue, Gloucester, Mass.

2 Q. Who owns the property upon which Cape Ann
3 Marina sits?

4 A. Dominick Realty Trust.

5 Q. Do you have any connection to the Dominick
6 Realty Trust?

7 A. I'm the beneficiary.

8 Q. Who is the trustee?

9 A. My brother James.

10 Q. How long has the Dominick Realty Trust owned
11 the property?

12 A. April Fools Day, 1972.

13 Q. Is that when the trust purchased it?

14 A. Yes.

15 Q. Did you own the property prior to the trust
16 owning it?

17 A. No.

18 Q. So your initial connection to the property
19 was purchasing it through your trust?

20 A. Correct.

21 Q. Was Cape Ann Marina already located there at
22 the time?

23 A. Yes.

24 Q. Did you buy the business as well?

1 A. No.

2 Q. Did you start the business yourself?

3 A. Yes.

4 Q. When did you start Cape Ann Marina?

5 A. April Fool's Day, 1972.

6 Q. What existed when you bought the property?

7 A. There was a marina there. It was basically a
8 contractor's yard. And the gentleman that I
9 bought it from was in the demolition
10 business, so it was kind of a mess.

11 Q. Do you recall the buildings that were in
12 existence at that time?

13 A. There was a garage on a wharf.

14 Q. That was it?

15 A. Yes.

16 Q. What's your highest level of education?

17 A. I'm sorry?

18 Q. What's your highest level of education?

19 A. I graduated from college.

20 Q. Where did you go?

21 A. Boston College.

22 Q. When did you graduate?

23 A. 1964.

24 Q. What did you do from college to when you

1 purchased the marina?

2 A. I was a pilot in the Air Force in Vietnam.

3 Q. How long did you do that?

4 A. Two years.

5 Q. Did you have any experience working at a
6 marina prior to buying Cape Ann Marina?

7 A. No.

8 Q. Do you have any experience in the
9 construction field?

10 A. Yes.

11 Q. What experience did you have?

12 A. I was a hot-topper.

13 Q. For whom did you work?

14 A. My own business with my partner John McNiff.

15 Q. In Gloucester?

16 A. Yes.

17 Q. How long did you have that business?

18 A. I'm going to say five or six years, in that
19 area.

20 Q. Have you ever been involved in the
21 development of property other than Cape Ann
22 Marina?

23 A. No.

24 Q. Have you ever done construction of any

1 buildings?

2 A. No.

3 Q. Did you construct buildings at Cape Ann
4 Marina?

5 A. Did I?

6 Q. Or did you oversee? Did you act as a general
7 contractor? Did you have any involvement in
8 the construction of buildings at Cape Ann
9 Marina?

10 A. No.

11 Q. Who took over when you retired?

12 A. Anne Linguata.

13 Q. Did you maintain any connection to the
14 business while you were retired?

15 A. Can you be specific, please?

16 Q. Well, did you oversee certain activities in
17 connection with the marina?

18 A. Not really.

19 Q. Did you go to the property occasionally just
20 to check in and see how things were going?

21 A. Yes.

22 Q. Did you review the financial records of the
23 marina after you retired?

24 A. Once a year.

1 Q. What was that occasion?

2 A. To sign the tax returns.

3 Q. Were you involved in decisions related to the
4 insurance in connection with the marina after
5 you retired?

6 A. No.

7 Q. Was that Anne's responsibility?

8 A. Yes.

9 Q. So Anne was responsible for the day-to-day
10 operations of the marina when you retired?

11 A. I mean, we have other managers, you know.
12 And then my daughter and son-in-law came on
13 and my son, so yeah, she was the boss. She
14 is the boss.

15 Q. She oversees the people who have
16 responsibilities for particular areas of the
17 business, is that fair?

18 A. Yes.

19 Q. If my math is right, I think you said you've
20 lived in Florida for 13 years. Did you move
21 there after you retired?

22 A. No, you asked me where I live and how long
23 I've lived there. I moved to Florida in
24 1972.

1 Q. Did you operate Cape Ann Marina while you
2 lived in Florida?

3 A. Yes.

4 Q. Did you live in the Gloucester area from 1972
5 to 1995 at least a few months out of the
6 year?

7 A. Yes.

8 Q. What was that split?

9 A. Well, this year I'll be here July 15th until
10 October 30th. Then I go do the big boat show
11 in Fort Lauderdale, and that's it.

12 Q. What about from '72 to '95, can you estimate
13 roughly how many months out of a typical year
14 you would be in Gloucester?

15 A. At least eight.

16 Q. Do you know Jim Watson?

17 A. Yes.

18 Q. How long have you known him?

19 A. I'm not good on the records. When he was
20 with Blackadar.

21 Q. That's when you first met?

22 A. Yes.

23 Q. How did you first meet?

24 A. We placed the insurance with Blackadar

1 Insurance Company, and he was the account
2 guy.

3 Q. Did you have the account with Blackadar
4 before you met Jim?

5 A. No, I met Jim through Blackadar.

6 Q. How is it that you ended up with Blackadar?

7 A. They're marine insurance people. They
8 advertised in the yellow sheet. They
9 advertise, we do marinas.

10 Q. What was the name of the agency at the time,
11 do you know?

12 A. Blackadar.

13 Q. Did it become Blackadar and Watson at some
14 point in time?

15 A. I couldn't tell you that.

16 Q. At some point in time, Mr. Watson opened up
17 his own agency?

18 A. I guess.

19 Q. Do you have any knowledge of that?

20 A. No.

21 Q. Do you know who your insurance agent was for
22 the last ten years that you were at Cape Ann
23 Marina?

24 A. Watson.

1 Q. Jim Watson or Watson Insurance?

2 A. Whatever the name is.

3 Q. What types of insurance did you have with the
4 Watson Insurance Agency when you were still
5 running the business?

6 A. Whatever he told me we needed.

7 Q. Did you ever have a time where you went to
8 another agency?

9 A. No.

10 Q. Did you ever solicit bids from other agencies
11 or quotes?

12 A. When I was running the business?

13 Q. Correct.

14 A. No.

15 Q. Do you know if that was done after you
16 retired?

17 A. I don't.

18 Q. Could you estimate in a typical year how
19 often you saw Jim Watson face-to-face?

20 A. Once.

21 Q. When was that?

22 A. When he would come down with the papers to
23 sell us the insurance.

24 Q. The proposal?

1 A. I don't know what -- you know -- I guess.

2 "Here's what you need and this is what it's
3 going to cost you."

4 Q. Did he review the proposal with you?

5 A. No. What time frames are you talking about
6 here?

7 Q. When you were president.

8 A. Probably not, no. Anne would just do it.

9 Q. Would Jim sit down with Anne and go over the
10 proposal?

11 A. I would assume so.

12 Q. Typically, you would not be present?

13 A. I'm present, but I'm in the yard.

14 Q. You're physically on the property, but you're
15 not involved in the meeting, is that what you
16 mean?

17 A. Correct.

18 Q. So is it fair to say you don't know the
19 content of the conversation that Anne and Jim
20 would have when reviewing these proposals
21 typically?

22 A. My response to that is this: if it satisfied
23 Anne and subsequently my daughter, I trust
24 their judgement, and it would be okay with

1 me. I would typically say, "Are you
2 comfortable with this?" And they said yes,
3 and I'd go back in the yard.

4 Q. Were there occasions when you did sit through
5 a presentation by Jim Watson or anybody else
6 from the Watson Insurance Agency?

7 A. No.

8 Q. You don't remember ever doing that?

9 A. I was there, but cursory.

10 Q. Just so my question is clear, I think you
11 said you might pop into the meeting for a
12 little bit and then go back into the yard, is
13 that fair?

14 A. That is fair.

15 Q. My question that I'm trying to clarify is
16 have you ever had a meeting, one of these
17 annual meetings, where you sat through the
18 whole thing and listened to every word that
19 was said by everybody and didn't leave to go
20 out to the yard?

21 A. That never happened.

22 Q. Do you recall the last such meeting you were
23 at?

24 A. After the loss?

1 Q. No, just in terms of going over proposals.
2 Do you recall any meeting you were at for any
3 length of time?

4 A. No.

5 Q. Were you aware of Cape Ann Marina refinancing
6 the property in early 2000s?

7 A. I'm sure.

8 Q. I'll give you a more accurate date. I'm
9 looking at Exhibit 3 from Anne Linguata's
10 deposition, and it's an appraisal dated
11 April 2 of 2003. Does that refresh your
12 memory as to when or roughly there was a
13 refinancing of the property?

14 A. Yes, that's an appraisal for the bank.

15 Q. And Exhibit 4 to Anne's deposition was the
16 first page of a promissory note dated
17 May 23rd of 2003. Does that document look
18 familiar to you at all?

19 A. I'm sure it's a correct document, but I
20 don't -- no.

21 Q. Did you have any involvement in the
22 refinancing in terms of deciding whether to
23 do it, when to do it, how much to ask for?

24 A. Yes.

1 Q. With whom did you have those conversations?

2 A. Rick Edelstein.

3 Q. Who is he?

4 A. He's the banker at the -- the bank's been
5 sold two or three times.

6 Q. Is it TD Bank North now?

7 A. Yes.

8 Q. So you were the one that negotiated on behalf
9 of Cape Ann Marina for the refinancing?

10 A. No, we did it together.

11 Q. What do you mean?

12 A. Anne and myself.

13 Q. Oh, okay. And did you and Anne determine how
14 much money you were looking for and ask the
15 bank?

16 A. Yes.

17 Q. And what else did you do? Did you, like,
18 walk through the property with the appraiser
19 or anything like that?

20 A. No, I hired the appraisers, the best I can
21 get, and let them do their job.

22 Q. Did you hire your own appraisal service or
23 did the bank hire somebody?

24 A. I got a list of appraisers that are

1 certified. I gave them to the bank, and I
2 said, "Are these qualified people?" And they
3 said yes, well, you know, to Anne. But I
4 just want to make sure, because I'm in the
5 marine industry, that they're familiar with
6 marine properties. And I selected these
7 people.

8 Q. So the appraisal was done at the request of
9 Cape Ann Marina, is that what you're saying?

10 A. Semantics. The bank needed an appraisal on
11 which to review our loan request, so yes, I
12 retained the appraisers and I paid the
13 appraisers -- I, meaning the company -- and
14 took the appraisal and gave it to the bank.

15 Q. Did you ever review the appraisal with an eye
16 towards determining how much insurance the
17 marina should have?

18 A. No.

19 Q. Do you know if Anne did that?

20 A. I don't.

21 Q. Did you ever have any conversations with Anne
22 about the information contained in the
23 appraisal and how that would affect or help
24 establish values for the buildings for

1 insurance purposes?

2 A. No.

3 Q. Did your daughter Tobin have any involvement
4 in the insurance decisions related to Cape
5 Ann Marina?

6 A. Yes.

7 Q. Did you ever talk to her about the appraisal
8 and how it may affect the insurance values
9 for the property?

10 A. No.

11 Q. Was the money that was attained from the bank
12 in 2003 used for improving any of the
13 buildings on the property? .

14 A. I'd have to -- whatever money came in from
15 the bank very definitely went to the company.
16 I mean, that's --

17 Q. Why don't we say it this way, do you recall
18 any particular significant renovations done
19 to the buildings after the refinancing in
20 2003?

21 A. I really don't.

22 Q. So it might have been used to get new
23 curtains or sheets and things like that, but
24 is it fair to say that you don't recall any

1 kind of like knocking down walls and putting
2 in new buildings or anything significant, is
3 that fair?

4 A. Yeah. Yes.

5 Q. The loss that we're here to talk about today,
6 in the papers it's been referenced as the
7 "new hotel," do you understand that?

8 A. The what, I'm sorry?

9 Q. The new hotel.

10 A. On my property?

11 Q. Yes.

12 A. I don't know what you're talking about.

13 Q. There was a collapse of the hotel, correct?

14 A. Oh yes.

15 Q. How do you designate that building? What do
16 you call it?

17 A. It was a 22-unit building connected to the
18 swimming pool and connected to the original
19 30 units. And I really don't have a name for
20 it.

21 Q. In some of the documents it's been called the
22 new hotel to distinguish it from the 30-unit.

23 A. Correct.

24 Q. The 30-unit hotel was there first?

1 A. Yes.

2 Q. When was that built?

3 A. In the early 70s.

4 Q. Did you own the property when that was built?

5 A. Of course.

6 Q. And therefore, you owned the property when
7 the new hotel, the 22-unit building was
8 created?

9 A. Yes.

10 Q. Do you know when that was built, the 22-unit
11 hotel?

12 A. Not specifically.

13 Q. About 1988 maybe?

14 A. It's probably in that time frame.

15 Q. Do you know who built it?

16 A. I had a construction manager, a project
17 manager, Danny Oley. I don't know what the
18 name of his company was.

19 Q. He was not an employee of Cape Ann Marina?

20 A. No.

21 Q. So you hired an outside project manager?

22 A. Yes.

23 Q. And they hired all the subs?

24 A. Yes.

1 Q. Do you know how much it cost to build the new
2 hotel?

3 A. I don't.

4 Q. It was paid for by Cape Ann Marina I would
5 assume, correct?

6 A. Either that or Dominick Realty Trust. I'm
7 not sure how the accountant set it up. There
8 was an indoor swimming pool built in the new
9 hotel and then everything connected together
10 so we'd be in business 12 months a year.

11 Q. Who operated the new hotel?

12 A. Cape Ann Marina Corporation.

13 Q. Did Cape Ann Marina lease the property from
14 Dominick Realty?

15 A. Yes.

16 Q. And is that true of all the buildings and all
17 the land?

18 A. Everything.

19 Q. So Dominick Realty Trust was the owner of the
20 whole property and all the improvements on
21 it, and Cape Ann Marina was the tenant
22 renting all of those units and land?

23 A. You'd have to talk to the accountants. My
24 understanding is that Dominick Realty Trust

1 owns the land and the buildings but not the
2 equipment and the furnishings. That's owned
3 by Cape Ann Marina, Corporation. How they do
4 that, I'm not sure. As long as I get some
5 depreciation, that's all I want. I'm really
6 not sophisticated on this stuff.

7 Q. So the insurance was in the name of Cape Ann
8 Marina, is that true?

9 A. I don't really know.

10 Q. So you don't know if it was either Dominick
11 Realty Trust or Cape Ann Marina?

12 A. Well, I know that the bills were paid by the
13 marina.

14 Q. Do you know of any major renovations to the
15 22-unit hotel after it was built and before
16 the collapse?

17 A. No.

18 Q. So it was pretty much in its original state
19 when the collapse happened?

20 A. Yes.

21 Q. Did Cape Ann Marina maintain the property?

22 A. You mean clean the rooms?

23 Q. Yeah, or make repairs if anything was needed
24 or any of those kind of things?

1 A. Well, we have plumbers, electricians. I
2 don't know -- we sweep the streets. We rely
3 on contractors, people.

4 Q. So Cape Ann Marina would hire, you know,
5 plumbers --

6 A. Hire an electrician, hire a plumber. If a
7 glass breaks, you hire the people we've been
8 doing business with for almost 40 years.

9 Q. But Cape Ann Marina would do that, not
10 Dominick Realty Trust?

11 A. Yes.

12 Q. And Cape Ann would pay for the maintenance
13 costs?

14 A. Yes.

15 Q. Was there a particular person assigned to
16 oversee the hotels?

17 A. There's a manager.

18 Q. Do you know who that was?

19 A. Oh boy. I know who the present one is.
20 Denise.

21 Q. And how long has she been the manager?

22 A. Oh, she's been there a long time. Tobin can
23 tell you.

24 Q. As a result of the collapse, the new hotel

1 had to be taken down, correct?

2 A. Yes.

3 Q. And it has not been replaced?

4 A. I wish it was.

5 Q. But is that a yes, it has not been replaced?

6 A. It's not been replaced.

7 Q. Do you know of any present plans to replace
8 it?

9 A. If I had the money, I'd do it in a heartbeat.

10 Q. Have you looked into sites to replace the
11 hotel?

12 A. To what, I'm sorry?

13 Q. I'll withdraw the question. I'll start over.
14 The new hotel was placed on pilings, correct?

15 A. Yes, a wharf.

16 Q. And I believe there was some discussion after
17 the loss of putting it on more solid land?

18 A. No.

19 Q. Was the contemplated replacement of the hotel
20 to be put back on the same spot?

21 A. I never got that far.

22 Q. How far did it get?

23 A. I didn't get any money.

24 Q. Well, you got paid by ACE.

1 A. Whatever it was.

2 Q. Do you know how much it was?

3 A. No.

4 Q. Do you know how many times ACE paid you some

5 money -- you, meaning Cape Ann Marina -- for

6 this loss?

7 A. No.

8 Q. Are you aware that there were some advances

9 paid initially?

10 A. Yes.

11 Q. Do you know how much those were?

12 A. I know that we had to take the building down,

13 and I came back from Florida. And I think

14 the contractor needed \$100,000.

15 Q. And the insurance company made an advance for

16 \$100,000?

17 A. Yes.

18 Q. And then they made another one for another

19 hundred thousand a few months later?

20 A. I don't know about that.

21 Q. Do you know of any other advances?

22 A. No.

23 Q. Were you involved in the negotiations with

24 ACE?

1 A. No, not ACE.

2 Q. Did you deal with anybody at the Watson
3 Insurance Agency about the claim?

4 A. No.

5 Q. Do you know of anybody at Cape Ann Marina who
6 did deal with the Watson Insurance Agency in
7 connection with the claim?

8 A. I think we've got to make this clear, there
9 were these two gentlemen who were out there
10 from the insurance company measuring the
11 building and that kind of stuff. Yes, I was
12 with them to adjust the bricks and mortar. I
13 never had any conversations with anybody from
14 ACE.

15 Q. Fair enough. The man you dealt with, was
16 that Bill Mullen?

17 A. Yes.

18 Q. And he was an independent insurance adjuster?

19 A. I don't know what his deal was.

20 Q. So you don't know what his relationship, if
21 any, was with ACE, correct?

22 A. All I know is he's the guy they sent out
23 there.

24 Q. Okay. And what communications did you have

1 with Mr. Mullen?

2 A. He wanted measurements and plans, and that's
3 what I did.

4 Q. What about after the initial paperwork was
5 provided, did you have conversations with him
6 about the value of the claim?

7 A. They went back and forth how much this was
8 worth and that's worth. No, the big claim,
9 no.

10 Q. Did somebody from Cape Ann Marina have those
11 conversations?

12 A. Oh yes.

13 Q. And who was that?

14 A. Anne.

15 Q. Would Anne keep you up to date on the status
16 of those conversations?

17 A. Yeah, there was no money.

18 Q. Do you recall any offers that were made by
19 ACE?

20 A. The one thing I remember was that we were
21 working -- we thought we had \$3,000,000 or
22 whatever the coverage was. And then one day
23 it went from working through this and
24 depreciating and that, and then we got an

1 offer of -- I don't even remember the
2 specific numbers, but there's no way in the
3 world that we could ever go back into
4 business. Out of desperation I was driven to
5 this office.

6 Q. I'm going to show you Exhibit 21 to Anne
7 Linguata's deposition, specifically page 2.
8 Have you ever seen that proposal before?

9 A. What is your question again, sir?

10 Q. Have you ever seen the document before?

11 A. I'm sure I have. I don't remember it, but
12 I'm sure I have.

13 Q. I think you said there was a proposal made by
14 Mr. Mullen at some point in time and you
15 weren't sure of the specific numbers. Does
16 that document look familiar to you at all in
17 terms of numbers that were being offered
18 eventually by ACE?

19 A. Yeah, I think so.

20 Q. Did you -- you, meaning Cape Ann Marina,
21 hired people to determine what they thought
22 the value of the loss was, correct?

23 A. I don't think we did.

24 Q. How did you come to determine what you

1 thought the claim was worth?

2 A. We were relying on Mullen and the other
3 fellow.

4 Q. Who was the other guy?

5 A. I think there were two of them.

6 Q. Do you know what the other person's role was?

7 A. No.

8 Q. Do you know if they hired somebody to
9 evaluate the dollar values for each building?

10 A. No.

11 Q. Do you know if Cape Ann Marina hired anybody
12 to determine the values of each building on
13 the property?

14 A. No.

15 Q. Did you ever look at paperwork that described
16 the buildings and how much each one was
17 worth?

18 A. No.

19 Q. Did you ever see insurance policy statement
20 of value forms or other forms that indicated
21 the values of the building?

22 A. No, they told us. I don't know that stuff.

23 Q. Who told you?

24 A. Watson.

1 Q. Watson told you the value of your own
2 buildings?

3 A. Yes.

4 Q. How did they do that?

5 A. They insured day in and day out. Just as
6 long as we had insurance that was adequate, I
7 was a satisfied guy.

8 Q. Did you ever tour the property with anybody
9 from Watson Insurance Agency?

10 A. No.

11 Q. Did you ever give Watson Insurance Agency any
12 photographs of the interior of the building?

13 A. Not that I'm aware of.

14 Q. Do you know if Watson Insurance Agency was
15 ever taken on a tour of the entire property?

16 A. From time to time, they would have somebody
17 from the insurance -- whoever the person
18 wrote it come out, and they would go through
19 everything.

20 Q. Were you present when that happened?

21 A. No.

22 Q. What's your basis for saying that that
23 happened?

24 A. I just know it happened. I said, "Open the

1 doors. Let them" -- you know, we've got
2 nothing to hide.

3 Q. What expertise did the Watson Insurance
4 Agency tell you they had in terms of
5 determining values of property?

6 A. Watson, when he was with Blackadar, always
7 stated that this is the type of stuff they
8 write insurance for; they are marine people.
9 The basis of my business is marine, and I
10 just wanted to make sure that I was insured
11 for whatever exposure I would have.

12 And I also wanted to make sure, because I
13 had loans from banks -- and my loan
14 agreements very definitely stated that I
15 would have to have insurance. So I had to
16 satisfy those limits, and I relied on Watson
17 to do it. It was very clear.

18 Q. Did the banks receive the policy information?

19 A. You'd have to ask them. I know that we're
20 very strict about compliance with the bank,
21 and I've been at that bank for 30, plus more.
22 Whatever they want, they get.

23 Q. So the bank insisted on having a certain
24 amount -- they insisted on having insurance

1 to cover their interest in the property, at
2 least, right?

3 A. You'd have to ask them. I mean, as long as
4 they were satisfied with what we were
5 producing, that was that.

6 Q. That's my question. They had these
7 requirements of you that certain insurance be
8 in place, correct?

9 A. I'm sure of that.

10 Q. And how did they satisfy themselves that that
11 insurance was in place? Did you have to
12 provide that to them or did Watson?

13 A. I don't know. If they asked me if I were
14 insured, I would say, "Yes, we're insured."
15 Do they physically have the policies, I
16 really don't know.

17 Q. Did you give them documentation to tell them
18 what insurance you have?

19 A. No, I gave them my word.

20 Q. Did the bank ever say that you had
21 insufficient insurance?

22 A. Not to my knowledge.

23 Q. Did the bank ever conduct a review of the
24 insurance that you know of?

1 A. I don't know of that.

2 Q. When you refinanced in 2003, did the bank
3 have requirements about insurance in
4 connection with that refinancing?

5 A. I'm not sure of that.

6 Q. What documents are you referring to when you
7 say that the bank had these requirements?

8 A. Well, you go into a bank -- number one, that
9 appraisal that you just showed, that's the
10 income approach. That's how it works in
11 marinas. That's all it is in marinas;
12 there's no other stuff.

13 So they take our financial statements,
14 and they take the appraisal, and they do a
15 review. And they ask you what you're going
16 to do with the money, I guess, and we tell
17 them. And they dispense it.

18 In terms of the insurance policies being
19 placed, I don't know. I really don't know.
20 If they asked me, I'd go into the office and
21 I'd say, "Anne, the bank wants the insurance
22 policies or whatever," and she would take
23 care of it.

24 Q. And as far as you know, the bank never had

1 any problems with the insurance that Cape Ann
2 Marina had in place?

3 A. I never -- no.

4 Q. Did you ever determine what the value of the
5 loss was to the Cape Ann Marina from this
6 collapse?

7 A. No.

8 Q. And you don't know how much money was paid by
9 ACE in payment of that claim?

10 A. I really don't.

11 Q. So is it fair to say you don't know whether
12 the insurance was insufficient to cover the
13 entire loss?

14 A. I was under the assumption, and still am,
15 that we were adequately insured. If I had
16 the money from them, Watson would still be my
17 agent. I wouldn't be in this building, and
18 I'd be just doing what I've been doing for 37
19 years.

20 Q. But what basis do you have to say that you
21 didn't have enough insurance?

22 A. I assumed we had 3,000,000, I don't know,
23 whatever we were told.

24 Q. Well, the loss wasn't \$3,000,000, right, it

1 was less than that?

2 A. Yeah, but what I'm saying is at some point we
3 got a ridiculous offer when I was finally
4 driven in to this place and said frankly, I'm
5 getting screwed.

6 Q. And that was not the amount that ACE
7 ultimately paid, correct?

8 A. I don't know what they paid, but I know this,
9 as we were going through, like, those numbers
10 and all that -- we cooperated with everybody
11 and said, "If this is what it is, this is how
12 everything works, okay, that's what I get."
13 And I didn't get it.

14 Q. Did you ultimately get it, though?

15 A. No. I don't know what we got. I'd have to
16 rely on -- these gentlemen took care of it
17 after that. I just said I've had it with
18 these guys.

19 Q. You're suing the Watson Insurance Agency in
20 this case, correct?

21 A. Yes.

22 Q. And for what? What are you saying that
23 Watson owes you?

24 A. What they said we had, we didn't get.

1 Q. I'm asking you what that is.

2 A. I don't know.

3 Q. What's it based on?

4 A. There's no point in my going forward and
5 trying to figure out what I need when I don't
6 have the money to pay people. I don't do
7 things like that.

8 Q. You're suing my client. I'm asking you what
9 are you looking for. What are you saying
10 Watson Insurance Agency didn't give you that
11 you think that you're entitled to?

12 A. We thought we were totally insured adequately
13 based on what they told us. And obviously,
14 it wasn't correct or I'd be back in business.

15 Q. But you don't know how much the loss was, and
16 you don't know how much the insurance company
17 paid, is that fair?

18 A. If you're asking me for nickels and dimes,
19 no, I don't. If I knew you wanted to ask me
20 these questions, I'd go into the office and
21 say, "Show me what we've got." I don't do
22 that. I'm an outdoor guy. I'm not evading
23 your questions. I don't specifically know,
24 but I do know that we don't have the money to

1 build the building back, which we desperately
2 need.

3 Q. Do you know if ACE paid more than a million
4 for the building?

5 A. I don't.

6 Q. Do you know if they paid more than a million
7 and a half?

8 A. I really don't. I don't know. I came in
9 here, and these fellows took care of it.

10 Q. Were you present at a meeting in this office
11 with Jim Watson, Lisa Nolan and Lynn
12 Lavallee?

13 A. I don't think I was.

14 MR. McCORMICK: I can't answer. Your
15 best memory.

16 A. I really don't. I don't remember.

17 Q. Do you know who Lisa Nolan is?

18 A. Yes, I've met her.

19 Q. And who is she?

20 A. I don't know.

21 Q. Do you know if she works for the Watson
22 Insurance Agency?

23 A. I would assume so, yes.

24 Q. What was the context of your meetings?

1 A. She'd show up with Jim and they'd meet in
2 Anne's office. I guess she manages the
3 account. Beyond that, I couldn't tell you.

4 Q. Did you ever have any conversations yourself
5 with Lisa?

6 A. No.

7 Q. Do you know who Lynn Lavallee is?

8 A. No.

9 Q. Do you know of anybody else by name at Watson
10 Insurance Agency?

11 A. No.

12 Q. I'm sorry if I asked you this already, but
13 Blackadar was your agent right from 1972 when
14 you started the business or no?

15 A. No.

16 Q. When did Blackadar become your agent?

17 A. In the 80s sometime.

18 Q. Why did you switch to Blackadar?

19 A. Because the marina kept growing. We went
20 from basically like a little back mortar
21 operation over there to all the slips and the
22 whale watching, and we just needed a real
23 marina agent. And that was the most
24 prolific, if you will, guy.

1 Q. Eventually, you had, like, 13 buildings
2 there, right, roughly?

3 A. I'm not sure how many I have there. I can
4 count them.

5 Q. Well, Anne drew a diagram for us and maybe
6 that will help.

7 A. If it's 13, it's 13.

8 Q. I wasn't trying to hold you to 13. It's just
9 a rough.

10 A. Well, that building we're talking about that
11 collapsed was connected to the pool and
12 connected to the other. So is that one
13 building or is that three buildings, you
14 know?

15 Q. Fair enough. That's Anne's diagram. And
16 I'll show you also Exhibit 14 from Anne's
17 deposition. The diagram is, what, Exhibit --

18 A. Yeah, that's pretty --

19 Q. Okay. Have you ever seen Exhibit 14 before?

20 MR. ROSE: And while I'm in the midst of
21 doing this, I assume this is fine that we
22 don't re-marked everything; we just refer to
23 them as --

24 MR. McCORMICK: That's fine with me.

1 MR. ROSE: -- as exhibits from Anne's
2 deposition?

3 MR. McCORMICK: That's fine with me.

4 Q. Have you ever seen Exhibit 14 to Anne
5 Linguata's deposition before?

6 A. No.

7 Q. And as opposed to that specific document,
8 have you ever seen a form like that before?

9 A. No.

10 Q. When did the marina's relationship with
11 Watson terminate?

12 A. That would be after I came into this office
13 and had to have these guys get my money.

14 Q. 2006, 2007, somewhere around there maybe?

15 A. I'd have to -- I don't know the specific
16 date. Easy enough to find out.

17 Q. If I show you Exhibit 25 to Anne's
18 deposition, it appears to be an exchange of
19 e-mails between Lisa Nolan and Anne Linguata
20 about cancellation notices of the insurance
21 that was in place through Watson at that
22 time?

23 A. I've never seen this. That's Anne's
24 signature. That's good enough for me.

1 Q. And these are from June of 2007. Does that
2 sound about right, when the relationship
3 between Cape Ann Marina and Watson Insurance
4 Agency terminated?

5 A. I'm relying on that.

6 Q. Okay. What was your relationship with
7 Mr. Watson during the 20 years that you did
8 business together?

9 A. We never even went to lunch.

10 Q. So you'd say it was not cordial?

11 A. I didn't say that.

12 Q. How else would you describe it?

13 A. I thought he was a professional.

14 Q. Were there times when he helped you out with
15 claims that occurred during those 20 years?

16 A. No.

17 Q. Were there times when he helped you out with
18 covering your premium bills for a while
19 during that time?

20 A. Yes.

21 Q. Do you know how often that happened?

22 A. No.

23 Q. And how would that work, would they pay the
24 insurance company and you would pay Watson

1 back?

2 A. I don't know.

3 Q. Did you have a conversation with Mr. Watson
4 as to the termination of your relationship?

5 A. I don't think so.

6 Q. How was that communicated to the Watson
7 Insurance Agency?

8 A. It would be handled through Anne in the
9 office.

10 Q. You never spoke to Jim Watson about it?

11 A. No.

12 Q. Did you ever speak to Lisa Nolan about it?

13 A. No.

14 Q. Did you ever have any conversations with Jim
15 Watson at all about the claim, the collapse
16 of the new hotel?

17 A. Oh, I'm sure we had conversations.

18 Q. Do you recall anything specific?

19 A. No.

20 Q. Do you recall when they happened?

21 A. No.

22 Q. Were they all on the telephone?

23 A. I'm really not a telephone guy so no.

24 Q. Well, did you meet face-to-face --

1 A. My only conversation with them was to get the
2 building down so nobody got hurt. From that
3 point on, I was essentially out of the loop.
4 It was a claim. I never worried about it. I
5 just said, "We've got insurance. Let's get
6 back in business."

7 Q. So you left it up to Anne to follow through?

8 A. Yes, and Mr. Mullen and those fellows were
9 down there, and things were being dealt with.

10 Q. Had Cape Ann Marina had any prior property
11 losses that you can remember?

12 A. Oh gosh, "property" meaning?

13 Q. As opposed to a workers comp. claim or
14 somebody tripping and falling and --

15 A. Oh, I'm sure we've had those.

16 MR. McCORMICK: When you say you're sure
17 you've had those, the personal injury claims
18 or --

19 THE WITNESS: I don't know.

20 MR. McCORMICK: When he's talking about
21 property, he's talking about a fire or
22 something to one of the building that you
23 would have to go back and try to get
24 insurance payment for. Or equipment maybe or

1 buildings, things like that.

2 A. I had a fire on the barge that I lived on and
3 it was uninsured. No, we're not really -- in
4 the normal -- no, we've never -- this is the
5 biggest calamity we've ever faced.

6 Q. Have you had other property claims, though,
7 and not maybe of this magnitude but some
8 damage to a building or whatever?

9 A. Yeah, probably. Yes, but it's so
10 insignificant that I wouldn't, you know....

11 Q. Do you recall making claims to the insurance
12 company and having those get resolved?

13 A. No.

14 Q. Other than the fire on the barge, were there
15 claims that were uninsured or underinsured?

16 A. I couldn't tell you.

17 Q. Did you ever look at an insurance policy that
18 covered the property at Cape Ann Marina?

19 A. No.

20 Q. You never reviewed one?

21 A. No.

22 Q. Did you receive one?

23 A. I would assume so.

24 Q. Do you know if Anne ever looked through the

1 policies?

2 A. No, I don't know.

3 Q. Did you ever go over them with her?

4 A. No.

5 Q. Did you ever discuss them with Tobin?

6 A. No.

7 Q. Are you aware of any instances when the
8 values of the properties were changed?

9 A. No.

10 Q. Did you ever have any discussions with Anne
11 or Tobin, other than if you're satisfied with
12 the insurance, that's fine? Any other
13 conversations that you had about the amount
14 of insurance that was in place?

15 A. The only conversations, and it's this simply
16 put, "If you're satisfied, and this is what
17 they tell you we need, and this is what it
18 costs, that's what it is." I totally relied
19 on what they tell me.

20 Q. Did you ever give a copy of the appraisal to
21 anybody at Watson Insurance Agency?

22 A. I don't know.

23 Q. Do you ever recall giving them any appraisals
24 or any information about the value of the

1 property?

2 A. No.

3 MR. McCORMICK: Bill, just to be clear,
4 when you say "you," you mean him personally?
5 You're talking about Cape Ann Marina?

6 MR. ROSE: Fair enough.

7 Q. I assume your answer was that you personally
8 haven't given them any documentation --

9 A. Those appraisals -- it says in there
10 someplace that it's for -- whatever purpose
11 it is -- and you're not supposed to banter it
12 around. I had the appraisal done for the
13 bank. I gave the appraisal to the bank, and
14 I paid for it, and that's it.

15 Q. Did you give Watson Insurance Agency any
16 information or documentation about the values
17 of your buildings?

18 A. No.

19 Q. When the new hotel was first purchased, did
20 you give them any documentation about the
21 cost of the building?

22 A. I don't know. I really don't know.

23 Q. I may be done. If you don't mind, hold on a
24 second.

1 A. Take your time.

2 (Discussion off the record.)

3 (Whereupon, the deposition concluded at
4 11:20 a.m.)
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DEPONENT'S ERRATA SHEET AND
SIGNATURE INSTRUCTIONS

The original of the Errata Sheet has
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McCormick.

When the Errata Sheet has been completed
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ATTACH TO DEPOSITION OF ANDREW DOMINICK, JR.
CASE NAME: CAPE ANN MARINA, CORP. VS WATSON
INSURANCE AGENCY
DATE: MAY 22, 2009

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I have read the foregoing transcript of my deposition, and except for any corrections or changes noted above, I hereby subscribe to the transcript as an accurate record of the statements made by me.

(Andrew Dominick, Jr.)

COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX, ss.

I, Lisa Gallo, a Shorthand Reporter and
Notary Public in and for the Commonwealth of
Massachusetts, do hereby certify that:

ANDREW DOMINICK, JR., the witness whose
deposition is hereinbefore set forth, was
duly sworn by me, and that such deposition is
a true record of the testimony given by the
witness to the best of my skill, knowledge,
and ability.

I further certify that I am not related
to any of the parties in this matter by blood
or marriage and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set
my hand and my affixed notarial seal this
1st day of June 2009.



Lisa Gallo
Notary Public

My Commission expires:
January 7, 2016

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